

BOISE, TUESDAY, NOVEMBER 12, 2013, AT 9:00 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40197

CHRISTOPHER CONLEY TAPP,)
)
Petitioner-Appellant,)
)
v.)
)
STATE OF IDAHO,)
)
Respondent.)
_____)

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Joel E. Tingey, District Judge.

Nevin, Benjamin, McKay & Bartlett, LLP, Boise for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

In his second appeal in this post-conviction case, Christopher Conley Tapp challenges the district court's summary dismissal of his claim that his defense counsel provided ineffective assistance by failing to present evidence of his diminished mental capacity in support of Tapp's motion to suppress his confession as involuntary. Tapp contends that because the Idaho Court of Appeals, in his prior post-conviction appeal, reversed the summary dismissal of this claim and directed the district court to conduct an evidentiary hearing, the district court on remand was precluded from granting the State's renewed motion for summary dismissal on a new ground. In the alternative, Tapp contends that summary dismissal of the claim was erroneous on the merits. Tapp further contends that the district court erred by denying his petition for DNA testing.

BOISE, TUESDAY, NOVEMBER 12, 2013, AT 10:30 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40353

WALLY KAY SCHULTZ,)
)
Petitioner-Appellant,)
)
v.)
)
STATE OF IDAHO,)
)
Respondent.)
_____)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Minidoka County. Hon. Michael R. Crabtree, District Judge.

Fuller Law Offices; Daniel S. Brown, Twin Falls, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Mark W. Olson, Deputy Attorney General, Boise, for respondent.

Wally Kay Schultz appeals from the district court's order summarily dismissing his petition for post-conviction relief and the denial of his motion for reconsideration. In 2007, Schultz pled guilty to possession of methamphetamine, a violation of Idaho Code § 37-2732(c)(1). In 2011, Schultz received a letter describing misconduct that occurred between 2003 and 2011, at the Idaho State Police Forensic Laboratory in Pocatello, Idaho. During this period of time, several forensic scientists maintained an unauthorized box of controlled substances at the laboratory. The forensic scientists maintained the undocumented drugs for training and display purposes, and they apparently did not disclose the drugs to auditors. One of the forensic scientists involved in the misconduct tested the substance in Schultz's case and was on the State's witness list for Schultz's trial. The information contained in the letter had not been disclosed to Schultz before he pled guilty. Schultz claims his due process rights were violated by the State's failure to disclose this information before he pled guilty to possession of methamphetamine.

BOISE, TUESDAY, NOVEMBER 12, 2013, AT 1:30 P.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40354

STATE OF IDAHO,)
)
Plaintiff-Appellant,)
)
v.)
)
GARY DEAN BLANKENSHIP,)
)
Defendant-Respondent.)
_____)

Appeal from the District Court of the First Judicial District, State of Idaho, Bonner County. Hon. Steven C. Verby, District Judge.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Bryce W. Powell of Powell & Reed, P.C., Sandpoint, for appellant.

In 2012, Gary Dean Blankenship's adult stepdaughter alleged that Blankenship sexually abused her for a number of years while she was a minor. The State filed a criminal complaint charging Blankenship with two counts of lewd conduct with a minor under sixteen years of age. However, because these charges were barred by the applicable statute of limitation, the State filed an amended criminal complaint, and later an information, alleging a single count of statutory rape in violation of Idaho Code § 18-6101.

Blankenship filed a motion to dismiss the information, asserting the prosecution was barred by the five-year statute of limitation applicable to statutory rape. The State opposed the motion to dismiss and filed a motion to amend the information to allege facts constituting forcible rape, a charge not barred by the statute of limitation. The district court denied the motion to amend the information and granted Blankenship's motion to dismiss, determining that allowing the amendment would prejudice Blankenship's substantial rights. The State appeals the denial of its motion to amend the information.